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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 8250/2011**

VIPIN KUMAR MITTAL AND ANR. Petitioner

Through: **Mr. P.S. Bindra, Advocate**

versus

UOI AND ANR. Respondents

Through: **Mr. Sushil Kumar, Addl. Standing Counsel
for R-1/UOI**

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

% **23.11.2011**

CM No. 18572/2011

Exemption allowed, subject to just exceptions.

W.P.(C) No. 8250/2011

1. The mandamus sought to the respondent No.1/UOI is to forthwith regularize the allotment of GNCTD quarter No. 1209, Type-II, Delhi Administration Flats, Gulabi Bagh, Delhi, in the name of 1st petitioner – Mr.Vipin Kumar Mittal. Another relief sought in this petition is to put on hold the eviction proceedings sought to be initiated against the petitioner No.2 – Sh. Mool Chand Mittal, who is in occupation of the aforesaid premises of respondent No.2/GNCTD even after retirement and in this

regard, Show Cause Notice of 24/10/2011 (Annexure P-16) has been issued to the petitioner No.2.

2. Learned counsel for petitioners states that when petitioners request for regularization of the aforesaid allotment is pending before the respondent No.1, then the issuance of the impugned Show Cause Notice upon petitioner No.2 is bad in law.

3. Petitioners claim that Representation (Annexure P-14), seeking regularization of the aforesaid flat, was made to respondent No.1/UOI and the same has not been responded to. Learned counsel for petitioners strongly relies upon the decision of the Central Administrative Tribunal in O.A. No. 818/1996, titled as '*Shri Dinesh Kumar Sharma Vs. The Secretary, Land & Building Department & Ors.*', rendered on 20.02.1998, wherein directions issued were to consider inter-pool exchange of government accommodation and it is stated that in pursuance to the said order, the inter-pool exchange was permitted by respondent No.2 on 12.07.1999.

4. Upon Notice, learned counsel for respondent No.1 states that petitioners' similar request for regularization of the accommodation in question has been turned down vide communication of 25/26.06.2007 by observing that the premises in question is not under the administrative control of respondent No.1.

5. To controvert the aforesaid assertion, learned counsel for petitioners draws the attention of this Court to the earlier Representation made by the petitioners wherein inter-pool exchange of government accommodation

policy was not specifically referred to, as has been referred to in this Representation (Annexure P-14). It is also pointed out that respondent No.2 has '*No Objection*' to the aforesaid regularization of the allotment if an equal accommodation is placed at the disposal of Delhi Government by respondent No.1 and this is so evident from the communication of 22.09.2008 (Annexure P-8).

6. Be that as it may. Without touching on the merits of the issue raised in this petition, it is deemed appropriate to direct respondent No.1 to decide petitioners' Representation (Annexure P-14) expeditiously, i.e. preferably within a period of 4 weeks, after hearing petitioner No.1 and the fate of the Representation be communicated to petitioner No.1 within 2 weeks thereafter.

7. So far as the quashing of Show Cause Notice of 24.10.2011 is concerned, I find that the prayer made in this respect is premature because petitioner No.2 is always at liberty to respond to the aforesaid Show Cause Notice and to explain the factual position before the authorities concerned. For this purpose, petitioners shall make a response to respondent No.2 within 4 weeks. However, it is made clear that before the eviction proceedings against petitioner No.2 are finalized, the fate of the Representation (Annexure P-14) be taken into consideration by the Estate Officer concerned.

8. With observations as aforesaid, this petition stands disposed of, with no orders as to costs.

9. Copy of this order be given *dasti* to counsel representing both sides.

CM No. 18571/2011 (u/S 151 CPC)

Dismissed as infructuous.


(SUNIL GAUR)
JUDGE

NOVEMBER 23, 2011

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